

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

v.

WHITNEY A. FRAZIER,

Defendant.

**8:18CR356**

**ORDER**

This matter is before the Court on defendant Whitney A. Frazier’s (“Frazier”) Motion to Dismiss (Filing No. 21) one of the two counts in the Indictment (Filing No. 1) as multiplicitous. *See, e.g., United States v. Roy*, 408 F.3d 484, 491 (8th Cir. 2005) (“An indictment is multiplicitous if it charges a single offense in multiple counts.”). On April 26, 2019, the magistrate judge<sup>1</sup> issued a Findings and Recommendation (Filing No. 27) recommending the Court deny Frazier’s motion without prejudice to reassertion at trial. *See* 28 U.S.C. § 636(b)(1) (authorizing the Court to designate a magistrate judge to assist with pretrial matters on dispositive motions). The magistrate judge explained that the facts in the record did not permit him to determine whether the Indictment improperly charged a single offense twice or properly charged two separate offenses.

In recommending denial, the magistrate judge advised the parties to object within fourteen days or risk waiving any objection. Neither party objected.

Under 28 U.S.C. § 636(b)(1), the Court must “make a de novo review of . . . specified proposed findings or recommendations to which objection is made.” But when no one objects, further review is unnecessary. *See Peretz v. United States*, 501 U.S. 923, 939 (1991). “[T]he failure to file objections eliminates not only the need for de novo

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<sup>1</sup>The Honorable Michael D. Nelson, United States Magistrate Judge for the District of Nebraska.

review, but *any* review by the district court.” *Leonard v. Dorsey & Whitney LLP*, 553 F.3d 609, 619-20 (8th Cir. 2009); *accord* Fed. R. Crim. P. 59 (a), (b)(2) (explaining the failure to timely object waives the right to review); NECrimR 59.2(a), (e).

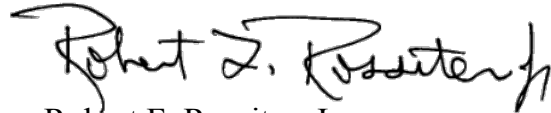
Given the absence of a timely objection from the parties in this case,

IT IS ORDERED:

1. The Findings and Recommendation (Filing No. 27) is accepted. Any objections are deemed waived.
2. Defendant Whitney A. Frazier’s Motion to Dismiss (Filing No. 21) is denied without prejudice to timely reassertion at trial.

Dated this 13th day of May 2019.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Robert F. Rossiter, Jr.", with a stylized flourish at the end.

Robert F. Rossiter, Jr.  
United States District Judge